

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 15152 of 2000

Between:

V.Dharmamba D/o.Sri V.Venkata Raman, Hindu,
aged 66 years, Retired Teacher, R/o.H.No.21-10-48/1,
Second Lane, Srinagar, Satyanarayanapuram,
Vijayawada.

..... PETITIONER

AND

1. The Divisional Railway Manager,

Personnel, S.C. Railway,
Vijayawada.
2. The Director of School Education,

Government of Andhra Pradesh, Saifabad,

Hyderabad.
3. The Head Master,

Railway High School,
Telugu Medium, S.C. Railway,
Satyanarayanapuram, Vijayawada.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate order or orders declaring the order passed by the Central Administrative Tribunal, Hyderabad Bench, dt.10-3-2000 in O.A.No.303/98 as being illegal, arbitrary, unjust, improper, discriminatory as is opposed to Art.14 of the Constitution of India while directing the 1st respondent count the service rendered by the petitioner as teacher for the period from 2-8-1950 to 4-10-1961, i.e., for 11 years 2 months 2 days in the aided post in the aided schools recognized by the Govt. of A.P., for calculating pension along with the period from 5-10-1961 to 29-2-1992 by holding the proceedings issued by the first respondent is contrary to the policy laid down in G.O.Ms.No.3372, dt.31-10-1961 referred to G.O.Ms.No.292, dated 16/12/1991.

Counsel for the Petitioner: MR.E.S.RAMACHANDRA MURTHY

For the Respondent Nos.1 & 3.: MR.R.S.MURTHY, Standing Counsel for South Central Railway.

For the Respondent No.2: G.P. for Education

The Court made the following:

—

—

—

—

—

—

—

—

—

—

—

—

ORDER:

This petitioner is assailing the order dated 10-03-2000 passed by the Central Administrative Tribunal, Hyderabad Bench in O.A.No.303 of 1998.

2. The matter relates to computation of pension taking into consideration the aided service put in by the employee in other than the Railway Department. The petitioner worked as Teacher in aided post at Vijayawada from 02-08-1950 to 04-10-1961, thereafter she was selected as Teacher in Railway Department and joined in the Railway School on

05-10-1961 and ultimately she retired from service on 29-02-1992. The issue arose with regard to the qualifying service for computation of pension. The Railways granted pension to the petitioner for the service rendered by her in Railways from 05-10-1961 to 29-02-1992, but however, the petitioner claims that the service put in by her from 1950 to 1961 should also be taken into consideration while computing the pension and in the case of three other employees also similar computation was shown and therefore, the petitioner was meted out with discriminatory treatment in respect of payment of pension.

3. The Tribunal, considering this matter, held that the petitioner is not entitled for pension for the period of service rendered in aided post other than the Railway Teachers post.

4. The learned counsel, however, submits that when the petitioner stands on the same footing as that of the other three employees, there is no reason why the petitioner should be discriminated, but the question falls for consideration is whether the petitioner has legal right to claim pension for the service rendered by her as aided Teacher.

5. The Railways rely on circular No.169/82 on this aspect and to claim the benefit of earlier service, three conditions have to be fulfilled which are extracted below:

“2. The Government servants claiming the benefit of combined service in terms of the above decision are likely to fall into one of the following categories: -

1. **Those who having been retrenched from the service of Central/State Government secured on their own employment under State/Central Government either with or without interruption between the date of retrenchment and date of new appointment.**
2. **Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Government through proper channel/without proper permission of the administrative authority concerned.**
3. **Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Government direct without the permission of the administrative authority concerned and resign their previous posts to join the new appointments under State/Central Governments.”**

6. The Tribunal found that the petitioner failed to fulfill any of the conditions and therefore rejected the claim. Merely because three other persons were granted the continuity of service for computation of pension, that would not give any right to the petitioner to claim the same. We are not inclined to verify as to under what circumstances the said employees were granted stagnation increments. Even assuming that if any illegal act has been committed by the Railways, this Court cannot direct them further to follow the said illegal act by issuing orders under Article 226 of the Constitution of India. Thus, we do not find any ground to interfere

with the order passed by the Tribunal.

7. The writ petition is, accordingly dismissed. No order as to costs.

(G.BIKSHAPATHY,J)

(P.S.NARAYANA,J)

Date: 24th November, 2004

CHVN/BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Divisional Railway Manager,

Personnel, S.C. Railway,
Vijayawada.

2. The Director of School Education,

Government of A.P., Saifabad,

Hyderabad.

3. The Head Master, Railway High School,

Telugu Medium, South Central Railway,
Satyanarayanapuram, Vijayawada.

4. The Registrar, Central Administrative Tribunal, Hyderabad Bench,
Hyderabad.

5. Two C. Cs to G.P. for Education, High Court Buildings,
Hyderabad (OUT).

6. Two C.D. copies.